

HOUSE BILL REPORT

HB 3069

As Reported by House Committee On: Housing

Title: An act relating to resolving manufactured/mobile home landlord and tenant disputes.

Brief Description: Resolving manufactured/mobile home landlord and tenant disputes.

Sponsors: Representatives Morrell, Pettigrew, Miloscia, Springer, Williams, Hunt, O'Brien, Hasegawa and Hudgins.

Brief History:

Committee Activity:

Housing: 1/26/06, 2/2/06 [DPS].

Brief Summary of Substitute Bill

- Authorizes the Department of Community, Trade, and Economic Development (DCTED) to operate a conflict resolution program through its Office of Manufactured Housing wherein ombudsman staff conduct investigations, make findings, and resolve disputes when alleged violations of the Manufactured/Mobile Home Landlord-Tenant Act occur.
- Requires that mobile home parks and communities be registered annually with the DCTED.

HOUSE COMMITTEE ON HOUSING

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 5 members: Representatives Miloscia, Chair; Springer, Vice Chair; Ormsby, Pettigrew and Sells.

Minority Report: Do not pass. Signed by 4 members: Representatives Holmquist, Ranking Minority Member; Dunn, Assistant Ranking Minority Member; McCune and Schindler.

Staff: Robyn Dupuis (786-7166).

Background:

Last year ESHB 1640 was passed by the Legislature. The act expired December 31, 2005. The act temporarily expanded the complaint investigation and mediation duties and resources of the Department of Community, Trade, and Economic Development's (DCTED) Office of Mobile Home Affairs (OMH). The DCTED was authorized to add staff to respond to a

greater number of disputes and allegations of unfair practices under the Consumer Protection Act (CPA) and violations of the Mobile/Manufactured Home Landlord Tenant Act, and was required to report on the number and nature of complaints received and resolved. The DCTED was also required to register mobile home and manufactured housing parks and communities and submit data to the Legislature.

The DCTED presented a report, as required by ESHB 1640, to the Legislature on December 31, 2005 which provided information regarding complaints, the estimated number of parks and communities in the state, and an outline of recommendations for legislative action. The DCTED recommended continuing the OMH program as expanded under ESHB1640 with a few changes including:

- authorizing the DCTED to issue findings as to whether or not violations have occurred;
- eliminating the requirement that complainants need notify respondents before notifying the DCTED of possible violations;
- revising the formula for the calculation of registration late fees; and
- amending current statutes which were the object of many complainant inquiries.

The DCTED recommended against the adoption of state enforcement of the Manufactured/Mobile Home Landlord-Tenant Act.

Summary of Substitute Bill:

The DCTED Office of Manufactured Housing, through its' ombudsman complaint resolution program, is authorized to take complaints from both landlords and tenants, conduct investigations, issue findings and resolve disputes through negotiation when alleged violations of the Manufactured/Mobile Home Landlord-Tenant Act (Act) occur.

Conflict Resolution Program

A complainant may file a complaint with the OMH which will notify the complainant of the time frame allowed to remedy complaints under the Act and encourage the complainant to notify the respondent. The OMH may then investigate the complaint, issue written findings, conclusions, decisions or rulings regarding whether a violation occurred, and negotiate an agreement that is agreed upon by both parties. Complainants and respondents must cooperate in the investigation by providing requested documentation and allowing the DCTED access to the property in question.

The DCTED is also required to review unresolved complaints from the previous 12 month period to determine the validity of those complaints.

The DCTED reports, and any other documents related to complaints may be admissible in accordance with the rules of evidence in any legal action in regard to alleged violations of 59.20 or 19.86.

Notice

The DCTED shall provide notice of the complaint resolution program to all landlords or park owners to the best of its ability. Park owners and landlords must post a notice in all common areas which includes information on how to file complaints with the OMH and a toll free number to use to communicate with the OMH.

Complaint Information Database

The DCTED shall maintain a database with information about complaints and shall provide a summary analysis of the data to appropriate legislative committees by December 31 of each year.

Registration Program

All parks and communities must be registered annually with the DCTED. The registration will include information about the park, including number of lots and contact information for the landlord and park manager. The registration assessment is \$5.00 for each mobile or manufactured home and mobile home owners may pass on no more than \$2.50 to tenants.

Late fees are assessed at 50 percent of the total amount due for registration if received between 30 and 60 days, and 100 percent if received after 60 days.

Funds from the registration fees and late fees will be deposited in the Office of Manufactured Housing Account. These fees will fund the OMH Ombudsman Program.

Office of Mobile Home Affairs Responsibilities

The OMH will serve as the coordinating office within state government on matters relating to mobile homes or manufactured housing. The office will house the complaint resolution program and the park registration program. The OMH will also provide technical assistance to resident organizations or persons in the process of forming a resident organization. The office shall perform all consumer complaint functions required by state and federal law and shall administer the Mobile Home Relocation Assistance Program.

Substitute Bill Compared to Original Bill:

The substitute eliminates references to an administrative hearing process. The substitute also allows documents, findings and other information gathered during investigations to be admissible as evidence in any legal action, whereas in the original bill such documents were only admissible for impeachment purposes. The substitute also requires the DCTED to address complaints for the previous 12 month period. The definition of recreational vehicle is amended to clarify that for the purposes of the act, a recreational vehicle is a permanent residence. The name of the DCTED office in charge of the ombudsman program is changed to the Office of Manufactured Housing.

Appropriation: None.

Fiscal Note: Preliminary fiscal note available.

Effective Date of Substitute Bill: The bill contains an emergency clause and takes effect immediately.

Testimony For: (In support of original bill) The DCTED has done a terrific job with the ESHB 1640 M/MH Ombudsman program but it's time to put some teeth into the law. The DCTED's report didn't go far enough and there are still questions outstanding as to what the real issues are between landlords and tenants. Many cases were not even resolved because landlords did not respond to the DCTED's requests for information. Furthermore, many tenants were not even notified about the existence of the new law. The administrative remedy is necessary for the security of tenants. Landlords are uncooperative, particularly out-of-state landlords, and are not participating in good faith. Many landlords do not respond to complaints and they do not participate in negotiations and mediation. The administrative hearing process will encourage them to do so. Give the OMH the authority to do their job.

Testimony Against: (Opposed to original bill) An administrative process is unnecessary. Parties need to come to the table and analyze the list of complaints the DCTED received to determine how many are actually valid. Many of the complaints can be remedied by the parties working together. An administrative process is time consuming and expensive. There are already good laws on the books which include mediation and arbitration clauses. Low-income mobile home tenants do have access to representation through legal service programs which represent tenants often on a contingency basis. Legitimate concerns go to court and remedies are found, but there is a lot of frivolous complaining that goes on and the administrative process in this bill will be burdensome on the landlords and the system in general. Binding arbitration may be considered. Tenants should start a union or complain to the town building officials if they have an issue, landlords simply can't handle any additional regulations. There is a fear that registration fees will increase over time to support the program. Late fees for the registration program are excessive.

Persons Testifying: (In support of original bill) Representative Dawn Morrell, prime sponsor; Fred Jones, Washington State President of Mobile Home Owners of America; Ishbel Dickens, Columbia Legal Services; Pamela Smith, Tenant at Clear Creek Mobile Home Park; Ken Newton, Mobile Home Owners of America for Kloshe Illahee Mobile Home Park; Nick Federici, Washington Low-Income Housing Alliance; and Sarah Jane Rivers, Mobile Home Owners of America Chapter Three.

(Opposed to original bill) Tim Kaiser, Mobile Home Owner at Chewelah Creek Court; John Woodring and Walt Olsen, Attorneys for Manufactured Housing Communities of Washington; and Ken Spencer, Executive Director for Manufactured Housing Communities of Washington.

Persons Signed In To Testify But Not Testifying: None.